

# EXHIBIT

“A”

BROWN GAVALAS & FROMM LLP

355 LEXINGTON AVENUE  
NEW YORK, NEW YORK 10017

TEL: (212) 983-8500  
FAX: (212) 983-5946  
www.browngavalas.com  
bgmail@browngavalas.com

NEW JERSEY OFFICE

1118 CLIFTON AVENUE  
CLIFTON, NJ 07013  
TEL: (973) 779-1116  
FAX: (973) 779-0739

HARRY A. GAVALAS  
(1978-1999)  
ROBERT J. SEMINARA  
(1987-1999)

November 20, 2007

BY HAND

Honorable Richard J. Holwell  
United States District Judge  
500 Pearl Street, Room 1950  
New York, New York 10007

Re: Jalapa Shipping Limited v. Sundersons Ltd., et al.  
07 Civ. 8715 (RJH)  
Our File No.: 1593.0003

Dear Judge Holwell:

We are counsel for the plaintiff in the referenced matter. We write to respond to Mr. Belknap's letter to the Court dated November 19, 2007, a copy of which we received yesterday afternoon at about 4:15 p.m.

Mr. Belknap represents Conti-Agro Nigeria Limited ("Conti-Agro"), a company which Mr. Belknap describes as "in the same corporate family as the defendants in this action." The defendants in this action include the defendant Milan Nigeria Ltd. ("Milan Nigeria").

Beside the present action, Milan Nigeria is/has been a defendant in at least two other Rule B attachment actions filed in the Southern District of New York this year: (1) *Allied Maritime Inc., et al. v. Milan Nigeria Limited*, 07 Civ 3522 (KPC) (sole defendant) ("the Allied Maritime Action") and (2) *Cruiser Shipping Pte. Ltd., et al v. Sundersons Ltd., et al.*, 07 Civ. 4036 (JGK) (multiple defendants) ("the Cruiser Shipping Action").<sup>1</sup>

<sup>1</sup> Mr. Belknap, who now represents Conti-Agro, was counsel for the plaintiff in the Allied Maritime Action. Our firm represents the plaintiff in the Cruiser Shipping Action.

BROWN GAVALAS & FROMM LLP

Honorable Richard J. Holwell  
United States District Judge  
November 20, 2007  
Page 2

The present action was filed on October 9, 2007 and sought an attachment of the property of the defendants, including Milan Nigeria, in the amount of \$400,250.55. Your Honor authorized attachment in that amount in an Order dated October 10, 2007 and in an amended Order dated October 22, 2007.<sup>2</sup> It is the plaintiff's position in the present action that the sum of \$163,730.50 is property of defendant Milan Nigeria and has been duly attached pursuant to the aforementioned Orders of this Court.

The contention by Conti-Agro that these funds are its property and not that of Milan Nigeria is highly disingenuous and is belied by Conti-Agro's own behavior. The Court should note that the electronic fund transfer of \$163,730.50 was first restrained by American Express Bank Ltd. ("AEBL") in the Allied Maritime Action on or about September 11, 2007. These funds remained under attachment in the Allied Maritime Action through September 28, 2007 when the action was voluntarily dismissed. *As far as we are aware, at no time did Conti-Agro appear in the Allied Maritime Action to argue that the attached funds were its property and not that of Milan Nigeria, or to seek a vacatur of the subject attachment.*<sup>3</sup>

Nor did Conti-Agro appear in the Cruiser Shipping Action to dispute the attachment of the funds pursuant to Judge Koeltl's order of attachment in that case. The plaintiff in the Cruiser Shipping Action was first notified of the attachment of the \$163,730.50 on September 12, 2007. Attached hereto as Exhibit "A" is an email dated September 14, 2007 from AEBL's counsel confirming the earlier notice of September 12<sup>th</sup>. As can be seen, AEBL's email also enclosed an International Money Transfer confirmation reflecting Milan Nigeria as the originator of the electronic fund transfer of \$163,730.50.

Notice of the attachment by AEBL in the Cruiser Shipping Action was given to Milan Nigeria on September 13, 2007 (Exhibit "B" attached hereto). It was not until September 19, 2007 that we were first advised by AEBL that yet another bank, Deutsche Bank, had been advised "that the remitting bank, Platinumhabib Bank PLC, inadvertently named Milan Nigeria LTD as the originator of this transaction." (Exhibit "C").<sup>4</sup> We

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<sup>2</sup> The amended Order (i) included the defendant Valechha Holdings Ltd. in the caption and (ii) included garnishee Deutsche Bank among the list of garnishees in the body of the Order.

<sup>3</sup> Of course, the voluntary dismissal of the Allied Maritime Action did not result in the release of the \$163,730.50 attached by AEBL on September 11<sup>th</sup>, since these same funds were subject to Judge Koeltl's order of attachment in the Cruiser Shipping Action and pursuant to this Court's Orders in the present action.

<sup>4</sup> Platinumhabib Bank PLC is also Milan Nigeria's main banker. Therefore, it is difficult to evaluate the extent to which the belated notice of an alleged error received from that bank maybe nothing more than a favor to a good customer.

BROWN GAVALAS & FROMM LLP

Honorable Richard J. Holwell  
United States District Judge  
November 20, 2007  
Page 3

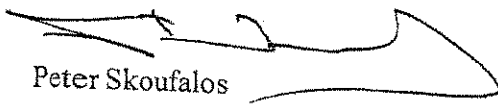
immediately contacted AEBL and advised that it was plaintiff's position that these funds remained subject to Judge Koeltl's order of attachment in the Cruiser Shipping Action. *As far as we are aware, at no time did Conti-Agro appear in the Cruiser Shipping Action to argue that the attached funds were its property and not that of Milan Nigeria, or to seek a vacatur of the subject funds.*

Finally, plaintiff objects to Conti-Agro's effort to sidestep the procedures provided for in the Supplemental Admiralty Rules applicable to Rule B attachments. Supplemental Rule E(4)(f) provides that "any person claiming an interest" in property is entitled to a prompt hearing. Conti-Agro should be required to comply with this rule so as to allow plaintiff a full and complete opportunity to respond and to present additional evidence in opposition to the request to release the attached funds.

We thank the Court for its consideration.

Respectfully,

BROWN GAVALAS & FROMM LLP

  
Peter Skoufalos

PS/ag  
Enclosures

cc: (via email)  
Blank Rome LLP  
Attn.: Thomas H. Belknap, Jr., Esq.

Zeichner Ellman & Krause LLP  
Attn.: Barry J. Glickman, Esq.

---

# **EXHIBIT “A”**

**Peter Skoufalos**

**From:** Martha M. Fletcher [MFletcher@zeklaw.com]  
**Sent:** Friday, September 14, 2007 2:01 PM  
**To:** 'pskoufalos@browngavalas.com'  
**Cc:** Barry J. Glickman  
**Subject:** RE: Cruiser Shipping Pte. Ltd. et al v. Sundersons Ltd., et al., Case 07-CV-04036 (JGK) [ORef.: 1593.0001]

**Attachments:** TRN 070911-49687.pdf



TRN

911-49687.pdf (79

Mr. Skoufalos:

Per your request, please find attached the wire instructions for TRN 070911-49687 in connection with the above-referenced matter. Please let me know if you have any questions.

Martha Fletcher  
Paralegal  
On behalf of Barry Glickman, Esq.  
Zeichner Ellman & Krause LLP  
575 Lexington Avenue  
New York, NY 10022  
(212) 826-5351 (telephone)  
(212) 753-0396 (facsimile)  
e-mail: mfletcher@zeklaw.com  
www.zeklaw.com

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---

**From:** Peter Skoufalos [mailto:pskoufalos@browngavalas.com]  
**Sent:** Friday, September 14, 2007 12:20 PM  
**To:** Martha M. Fletcher  
**Cc:** Barry J. Glickman

Subject: Cruiser Shipping Pte. Ltd. et al v. Sundersons Ltd., et al., Case 07-CV-04036 (JGK) [ORef.: 1593.0001]

Martha,

I would be grateful if you could get back to me on my inquiry of this morning on the referenced matter.

Peter Skoufalos  
Brown Gavalas & Fromm LLP  
355 Lexington Avenue, 4th Floor  
New York, New York 10017-6603

Tel.: 212 983-8500

Fax: 212 983-5946

Mob.: 917 686-3600

pskoufalos@browngavalas.com <blocked::mailto:pskoufalos@browngavalas.com>  
www.browngavalas.com <blocked::http://www.browngavalas.com/>

---

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&lt; &lt; &lt; INTERNATIONAL MONEY TRANSFER &gt; &gt;

RCVD FROM DEUTSCHE BANK TRUST CO. AMERICAS 280 PARK AVENUE  
SENDER'S DDA #

\*\*\* Message: NOT TESTED. \*\*\*

TRN REF #: 20070911-00049687

\*\*\*\* MESSAGE ENVELOPE \*\*\*\*

( Bank : USN

SRC:CHP CALLER:

SND DATE: 07/09/11  
EXT:

RPT# AMT:163,730.50

TEST: {} DUE:

CUR:USD RATE: 1.

TRDR#

TYP:FTR/

FNDS:S CHG:DB:Y CD:Y COM:N CBL:N

DBT P/0103

DEBIT VAL: 07/09/11

CDT D/

ADV:SWF

AMT: 163,730.50 CUR:USD

CREDIT VAL: 07/09/11

AMT: 163,730.50 CUR:USD

DEUTSCHE BANK TRUST CO. AMERICAS  
280 PARK AVENUE

MARFIN EGNATIA BANK S.A.

NEW YORK, N.Y. 10017

4, DANAIDON STR.

SNDR REF NUM:

GR-546 26 THESSALONIKI, GREECE

ORDERING BNK:S/PLNINGLA

BNF:/

CHG:B BK?N

PLATINUMHABIB BANK PLC

BULK MERCHANT CORPORATION SA

PLOT 707: ADEOLA HOPEWELL STREET  
LAGOS, NG

ORIG TO BNF INFO:

ORIG:

PERITY

REF:MV HONG PROS

MILAN NIGERIA LTD

REF NUM:IBAN:

## CHIPS 31 - RECEIVE NOTIFICATION

## [031] Receive Data:

Format version: 02 Value date: 2007/09/11  
Line number: 01 Time sent: 13:10:34  
Send participant: 0103  
Duplicate flag: 1 (Original)  
SSN: ISN: OSN:

## [221] Delivery Data:

Receive participant: 0159  
Beneficiary type: N (Non-bank)

[260] Amount: \$163730.50

[270] PSN:

[301] Charges deducted: BEN

Instructed Amount : USD 163,771.50

[320] SWIFT field 20:

[321] SWIFT field 21: IBAN:GR750280301

[412] Beneficiary's Bank: BEGNAGR2T

MARFIN EGNATIA BANK S.A.  
4, DANAIDON STREET  
THESSALONIKI, GR 54626 GREECE

(No CHIPS lookup)

[422] Beneficiary:

BULK MERCHANT CORPORATION SA

(No CHIPS lookup)

[502] Originator:

MILAN NIGERIA LTD

(No CHIPS lookup)

[512] Originator's Bank:

BPLNINGLA

(No CHIPS lookup)

PLATINUMHABIB BANK PLC (FMR PLATINU

AT:HEAD TREASURY, PMB 80054, V. I

PLOT 707 ADEOLA HOPEWELL ST

LAGOS NIGERIA



[600] Orig to Benef info:

PERITY

REF: MV HONG PROS

## MESSAGE HISTORY SEQUENCE

USN is the owning bank. Priority: Delivery ACK:

REF INDEX	REF #:	2007091100049687	11-SEP-2007 13:10:36.05
CHIPSIN1	SEQ #:	8983	11-SEP-2007 13:10:36.05
CHIPSIN	SEQ #:	8979	11-SEP-2007 13:10:36.05
CHIPSRCV	AMT:	163730.50	ORIG OSN: 8979 PAR: 0103
	SSN:	PSN:	VERSION: 0
CHIPSOSN	PSN:	AMT:	163730.50
CHIPS IN	AMT:	163730.50	TIME: 11-SEP-2007 13:10:36.05
CHIPSSSN	SEQ #:	275251	11-SEP-2007 13:10:36.05
Memo: CHIPS TIME:	131034		
CHIPSINQ	DEQ		
CHPIN LOG	AMT:	163730.50	TIME: 11-SEP-2007 13:10:36.19
SENDREFNDX	KEY:		
SYS MEMO	*CVD:999	DVD:999	PSD:12 SSD:--- DBD:1 CBD:1
*SYS MEMO	Stop_Check msg routed to EXTERNAL STOP SERVER 11-SEP		
-2007 13:10:36.23			
*SYS MEMO	*MRH/*MR/MAP/	/Y/\$\$\$MAP	
*DDA_INQ_DBT	INQ_DBT	AMOUNT:	163730.50
*DDA_INQ_CDT	INQ_CDT	AMOUNT:	163730.50
ISX_OUTQ	DEQ		
ISX_PNDDLVO	ENQ	SEQ: 831000	11-SEP-2007 13:10:37.30
		2007091100049687	REF:
ISX1_SRF	KEY:		
ISX1_OUT	SEQ #:	831000	11-SEP-2007 13:10:37.30 Info:
1100049687831000	F		
ISX1_SND	SEQ #:	831000	11-SEP-2007 13:10:37.30 Info:
1100049687831000	F		
ISX1_ACK	SEQ #:	831000	11-SEP-2007 13:10:37.35 Info:
1100049687831000	+		

# **EXHIBIT “B”**

**Peter Skoufalos**

**From:** Peter Skoufalos [pskoufalos@browngavalas.com]  
**Sent:** Thursday, September 13, 2007 4:20 PM  
**To:** 'Vikram Valechha'  
**Subject:** Cruiser Shipping Pte. Ltd. et al v. Sundersons Ltd., et al., Case 07-CV-04036 (JGK) [ORef.: 1593.0001]

**Attachments:** Second Amended Verified Complaint0001.pdf; Koeltl 2nd Amend. Order 9-6-070002.pdf.pdf



Second Amended Koeltl 2nd Amend.  
Verified Compla... Order 9-6-07...

Dear Mr. Valechha,

With regard to the defendant, Milan Nigeria Ltd., this is to notify you of an attachment in the amount of US \$163,730.50 by American Express Bank Ltd. pursuant to the order of attachment issued by Judge Koeltl in the referenced matter. This action, as you know, is now pending in the Southern District of New York.

A copy of the second amended verified complaint and second amended order dated Sept. 6, 2007, are attached.

Please do not hesitate to contact me if you require any further information concerning this notice.

**Peter Skoufalos**

Brown Gavalas & Fromm LLP  
355 Lexington Avenue, 4th Floor  
New York, New York 10017-6603

Tel.: 212 983-8500

Fax: 212 983-5946

Mob.: 917 686-3600

[pskoufalos@browngavalas.com](mailto:pskoufalos@browngavalas.com)  
[www.browngavalas.com](http://www.browngavalas.com)

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# **EXHIBIT “C”**

**Peter Skoufalos**

**From:** Martha M. Fletcher [MFletcher@zeklaw.com]  
**Sent:** Wednesday, September 19, 2007 4:27 PM  
**To:** 'pskoufalos@browngavalas.com'  
**Cc:** Barry J. Glickman  
**Subject:** FW: Cruiser Shipping Pte. Ltd. et al v. Sundersons Ltd., et al., Case 07-CV-04036 (JGK) [ORef.: 1593.0001]

Mr. Skoufalos:

Further to our telephone conversation today concerning the referenced matter, the following is a portion of a SWIFT message from Deutsche Bank Trust Co. Americas to American Express Bank in which it explains that the remitting bank, Platinumhabib Bank PLC, inadvertently named Milan Nigeria LTD as the originator of this transaction (TRN 070911-49687) when, in fact, the true originator is Conti-Agro Nigeria Limited. Please let us know if you need additional information.

Quality has received the below swift message, please advise:

:20:070912 604641  
:21:AEB0725501203  
:76:

.79.IN REFERENCE TO YOUR MESSAGE DD 09/12/07 UNDER REFERENCE AEB0725501203 WE REFER TO SSN DATED 09/11/07 FOR USD 163,730.50 BY ORDER OF PLATINUMHABIB BANK PLC (FMR PLATINU LAGOS, NIGERIA .  
AS REQUESTED THE FOLLOWING ARE CORRECTED DETAILS AS CONFIRMED BY THE REMITTING BANK PLATINUMHABIB BANK PLC REGARDING THE ABOVE REFERENCED TRANSACTION:QUOTE:KINDLY AMEND TAG 50K TO READ:CONTI-AGRO NIGERIA LIMITED ACCOUNT NUMBER:107102000300 WITH PLATINUM HABIB BANK PLC.

ALSO AMEND TAG 70 TO READ:PURPOSE:PAYMENT OF FREIGHT FOR MV HONG PROPERITY ALL OTHER TERMS REMAIN SAME .  
PLEASE TREAT AS URGENT, AS ERROR IS FROM THE BANK THANKS FOR YOUR CO-OPERATION.  
END QUOTE  
PLEASE AVOID DUPLICATION. PLEASE CONFIRM IF FUNDS WILL AND OR NOT BE RELEASE CONCERNING THIS AMENDMENT REQUEST NO INDEMNITY IMPLIED.

PLEASE QUOTE OUR REFERENCE NUMBER, 070912604641 IN ALL FUTURE CORRESPONDENCE RELATING TO THIS CASE.

REGARDS, ROY BOOTH PAYMENT INVESTIGATIONS

Martha Fletcher  
Paralegal  
On behalf of Barry Glickman, Esq.  
Zeichner Ellman & Krause LLP  
575 Lexington Avenue  
New York, NY 10022  
(212) 826-5351 (telephone)  
(212) 753-0396 (facsimile)  
e-mail: mfletcher@zeklaw.com  
[www.zeklaw.com](http://www.zeklaw.com)

11/20/2007

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-----Original Message-----

From: Martha M. Fletcher  
Sent: Friday, September 14, 2007 2:01 PM  
To: 'pskoufalos@browngavalas.com'  
Cc: Barry J. Glickman  
Subject: RE: Cruiser Shipping Pte. Ltd. et al v. Sundersons Ltd., et al., Case 07-CV-04036 (JGK) [ORef.: 1593.0001]

Mr. Skoufalos:

Per your request, please find attached the wire instructions for TRN 070911-49687 in connection with the above-referenced matter. Please let me know if you have any questions.

Martha Fletcher  
Paralegal  
On behalf of Barry Glickman, Esq.  
Zeichner Ellman & Krause LLP  
575 Lexington Avenue  
New York, NY 10022  
(212) 826-5351 (telephone)  
(212) 753-0396 (facsimile)  
e-mail: mfletcher@zeklaw.com  
[www.zeklaw.com](http://www.zeklaw.com)

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Sent: Friday, September 14, 2007 12:20 PM  
To: Martha M. Fletcher  
Cc: Barry J. Glickman  
Subject: Cruiser Shipping Pte. Ltd. et al v. Sundersons Ltd., et al., Case 07-CV-04036 (JGK) [ORef.: 1593.0001]

Martha,

I would be grateful if you could get back to me on my inquiry of this morning on the referenced matter.

Peter Skoufalos  
Brown Gavalas & Fromm LLP  
355 Lexington Avenue, 4th Floor

11/20/2007

New York, New York 10017-6603

Tel.: 212 983-8500

Fax: 212 983-5946

Mob.: 917 686-3600

pskoufalos@browngavalas.com <blocked::mailto:pskoufalos@browngavalas.com>  
[www.browngavalas.com](http://www.browngavalas.com) <blocked::http://www.browngavalas.com/>

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11/20/2007

**BROWN GAVALAS & FROMM LLP**

355 LEXINGTON AVENUE  
NEW YORK, NEW YORK 10017

TEL: (212) 983-8500  
FAX: (212) 983-5946  
www.browngavalas.com  
bgmail@browngavalas.com

NEW JERSEY OFFICE  
1118 CLIFTON AVENUE  
CLIFTON, NJ 07013  
TEL: (973) 779-1116  
FAX: (973) 779-0739

HARRY A. GAVALAS  
(1978-1999)  
ROBERT J. SEMINARA  
(1987-1999)

November 26, 2007

**BY HAND**

Honorable Richard J. Holwell  
United States District Judge  
500 Pearl Street, Room 1950  
New York, New York 10007

Re: Jalapa Shipping Limited v. Sundersons Ltd., et al.  
07 Civ. 8715 (RJH)  
Our File No.: 1593.0003

Dear Judge Holwell:

We are counsel for the plaintiff in the referenced matter.

We last wrote to the Court on Wednesday morning, November 21st, in response to correspondence sent by attorneys representing a non-party, Conti-Agro Nigeria Limited ("Conti-Agro"). Since our last letter, a further letter has been sent to the Court by Conti-Agro's attorneys and by counsel for the garnishee bank, American Express Bank Ltd. ("AEBL").

Initially, we wish to note again that the proper method of challenging a Rule B attachment is a motion under Supplemental Rule E(4)(f); not a flurry of letters sent to the Court on the eve of the Thanksgiving Day holiday. It is simply inappropriate for Conti-Agro to attempt to vacate a duly-ordered Rule B attachment without allowing plaintiff a full opportunity to respond in the form of affidavits and memoranda of law.

Second, Conti-Agro's arguments are, on their face, unconvincing. What is clear is that the defendant, Milan Nigeria Ltd. ("Milan Nigeria") and Conti-Agro are part of the same corporate group and may be using their corporate names interchangeably—perhaps



BROWN GAVALAS & FROMM LLP

Honorable Richard J. Holwell  
United States District Judge  
November 26, 2007  
Page 2

for the sole purpose of avoiding Rule B attachments. Moreover, it is indeed plaintiff's position that Conti-Agro waived any right it may have had to contest the restraint of these funds by sitting on its hands in two prior actions in which these same funds (\$163,730.50) were attached as property of Milan Nigeria. In essence, Milan Nigeria and Conti-Agro are relying on their alleged corporate "separateness" only when it is convenient to avoid a duly issued order of attachment from this Court.

The self-serving nature of Conti-Agro's current argument is also highlighted in the letter of AEGL's counsel to the Court dated November 21, 2007. As Mr. Glickman points out, the defendants in the present case and Conti-Agro have not always been consistent in maintaining a separate corporate identity. The defendants should not be rewarded for creating and then exploiting an ambiguous corporate affiliation with Conti-Agro.

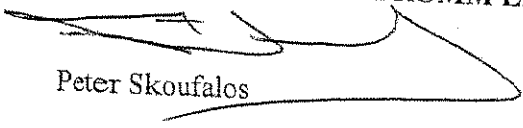
Third, Conti-Agro itself need not be a named defendant for the subject funds to be subject to this Court's attachment order. "A plaintiff need not aver an alter-ego relationship in the Complaint for a Rule B attachment to be proper," *Essar Int'l Ltd. v. Martrade Gulf Logistics, FZCO*, 2007 U.S. Dist. LEXIS 61713 (SDNY 8/23/07), citing *Maersk, Inc. v. Neewra, Inc.*, 443 F.Supp. 2d 519, 527-30 (whether grounds exist for Rule B attachment not limited to allegations of Complaint).

In the present case, the Court should find that, at a minimum, defendant Milan Nigeria has an interest in the attached funds and that these funds continue to be subject to the Court's attachment order in this case.

We thank the Court for its consideration and remain available to appear before Your Honor in regard to this matter.

Respectfully,

BROWN GAVALAS & FROMM LLP



Peter Skoufalos

PS/ag  
Enclosures

BROWN GAVALAS & FROMM LLP

Honorable Richard J. Holwell  
United States District Judge  
November 26, 2007  
Page 3

cc: (via email)  
Blank Rome LLP  
Attn.: Thomas H. Belknap, Jr., Esq.

Zeichner Ellman & Krause LLP  
Attn.: Barry J. Glickman, Esq.